
HOUSE BILL 1801

State of Washington 60th Legislature 2007 Regular Session

By Representatives Ericksen and Schindler

Read first time 01/29/2007. Referred to Committee on Transportation.

1 AN ACT Relating to the administration of fuel taxes; amending RCW
2 82.36.010, 82.36.020, 82.36.025, 82.36.026, 82.36.031, 82.36.060,
3 82.36.080, 82.36.160, 82.36.180, 82.36.305, 82.36.370, 82.36.373,
4 82.38.030, 82.38.032, 82.38.035, 82.38.050, 82.38.070, 82.38.130,
5 82.38.140, and 82.38.180; adding a new section to chapter 82.36 RCW;
6 repealing RCW 82.36.407 and 82.38.285; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 82.36.010 and 2001 c 270 s 1 are each amended to read
9 as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Blended fuel" means a mixture of motor vehicle fuel and
13 another liquid, other than a de minimis amount of the liquid, that can
14 be used as a fuel to propel a motor vehicle.

15 (2) "Bond" means a bond duly executed with a corporate surety
16 qualified under chapter 48.28 RCW, which bond is payable to the state
17 of Washington conditioned upon faithful performance of all requirements
18 of this chapter, including the payment of all taxes, penalties, and
19 other obligations arising out of this chapter.

1 (3) "Bulk transfer" means a transfer of motor vehicle fuel by
2 pipeline or vessel.

3 (4) "Bulk transfer-terminal system" means the motor vehicle fuel
4 distribution system consisting of refineries, pipelines, vessels, and
5 terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or
6 terminal is in the bulk transfer-terminal system. Motor vehicle fuel
7 in the fuel tank of an engine, motor vehicle, or in a railcar, trailer,
8 truck, or other equipment suitable for ground transportation is not in
9 the bulk transfer-terminal system.

10 (5) (~~"Dealer" means a person engaged in the retail sale of motor~~
11 ~~vehicle fuel.~~

12 ~~(6)~~) "Department" means the department of licensing.

13 ~~((7))~~ (6) "Director" means the director of licensing.

14 ~~((8))~~ (7) "Evasion" or "evade" means to diminish or avoid the
15 computation, assessment, or payment of authorized taxes or fees
16 through:

17 (a) A knowing: False statement; misrepresentation of fact; or
18 other act of deception; or

19 (b) An intentional: Omission; failure to file a return or report;
20 or other act of deception.

21 ~~((9))~~ (8) "Export" means to obtain motor vehicle fuel in this
22 state for sales or distribution outside the state.

23 ~~((10))~~ (9) "Highway" means every way or place open to the use of
24 the public, as a matter of right, for the purpose of vehicular travel.

25 ~~((11))~~ (10) "Import" means to bring motor vehicle fuel into this
26 state by a means of conveyance other than the fuel supply tank of a
27 motor vehicle.

28 (11) "International fuel tax agreement licensee" means a motor
29 vehicle fuel user operating qualified motor vehicles in interstate
30 commerce and licensed by the department under the international fuel
31 tax agreement.

32 (12) "Licensee" means a person holding a motor vehicle fuel
33 supplier, motor vehicle fuel importer, motor vehicle fuel exporter,
34 motor vehicle fuel blender, motor vehicle fuel distributor, or
35 international fuel tax agreement license issued under this chapter.

36 (13) "Marine fuel dealer" means a person engaged in the retail sale
37 of motor vehicle fuel whose place of business and/or sale outlet is
38 located upon a navigable waterway.

1 (14) "Motor vehicle fuel blender" means a person who produces
2 blended motor fuel outside the bulk transfer-terminal system.

3 (15) "Motor vehicle fuel distributor" means a person who acquires
4 motor vehicle fuel from a supplier, distributor, or licensee for
5 subsequent sale and distribution.

6 (16) "Motor vehicle fuel exporter" means a person who purchases
7 motor vehicle fuel in this state and directly exports the fuel by a
8 means other than the bulk transfer-terminal system to a destination
9 outside of the state. If the exporter of record is acting as an agent,
10 the person for whom the agent is acting is the exporter. If there is
11 no exporter of record, the owner of the motor fuel at the time of
12 exportation is the exporter.

13 (17) "Motor vehicle fuel importer" means a person who imports motor
14 vehicle fuel into the state by a means other than the bulk transfer-
15 terminal system. If the importer of record is acting as an agent, the
16 person for whom the agent is acting is the importer. If there is no
17 importer of record, the owner of the motor vehicle fuel at the time of
18 importation is the importer.

19 (18) "Motor vehicle fuel supplier" means a person who holds a
20 federal certificate of registry that is issued under the internal
21 revenue code and authorizes the person to enter into federal tax-free
22 transactions on motor vehicle fuel in the bulk transfer-terminal
23 system.

24 (19) "Motor vehicle" means a self-propelled vehicle designed for
25 operation upon land utilizing motor vehicle fuel as the means of
26 propulsion.

27 (20) "Motor vehicle fuel" means gasoline and any other inflammable
28 gas or liquid, by whatsoever name the gasoline, gas, or liquid may be
29 known or sold, the chief use of which is as fuel for the propulsion of
30 motor vehicles or motorboats.

31 (21) "Person" means a natural person, fiduciary, association, or
32 corporation. The term "person" as applied to an association means and
33 includes the partners or members thereof, and as applied to
34 corporations, the officers thereof.

35 (22) "Position holder" means a person who holds the inventory
36 position in motor vehicle fuel, as reflected by the records of the
37 terminal operator. A person holds the inventory position in motor
38 vehicle fuel if the person has a contractual agreement with the

1 terminal for the use of storage facilities and terminating services at
2 a terminal with respect to motor vehicle fuel. "Position holder"
3 includes a terminal operator that owns motor vehicle fuel in their
4 terminal.

5 (23) "Rack" means a mechanism for delivering motor vehicle fuel
6 from a refinery or terminal into a truck, trailer, railcar, or other
7 means of nonbulk transfer.

8 (24) "Refiner" means a person who owns, operates, or otherwise
9 controls a refinery.

10 (25) "Removal" means a physical transfer of motor vehicle fuel
11 other than by evaporation, loss, or destruction.

12 (26) "Terminal" means a motor vehicle fuel storage and distribution
13 facility that has been assigned a terminal control number by the
14 internal revenue service, is supplied by pipeline or vessel, and from
15 which reportable motor vehicle fuel is removed at a rack.

16 (27) "Terminal operator" means a person who owns, operates, or
17 otherwise controls a terminal.

18 (28) "Two-party exchange" or "buy-sell agreement" means a
19 transaction in which taxable motor vehicle fuel is transferred from one
20 licensed supplier to another licensed supplier under an exchange or
21 buy-sell agreement whereby the supplier that is the position holder
22 agrees to deliver taxable motor vehicle fuel to the other supplier or
23 the other supplier's customer at the rack of the terminal at which the
24 delivering supplier is the position holder.

25 **Sec. 2.** RCW 82.36.020 and 2001 c 270 s 2 are each amended to read
26 as follows:

27 (1) There is hereby levied and imposed upon motor vehicle fuel
28 (~~users~~) licensees a tax at the rate computed in the manner provided
29 in RCW 82.36.025 on each gallon of motor vehicle fuel.

30 (2) The tax imposed by subsection (1) of this section is imposed
31 when any of the following occurs:

32 (a) Motor vehicle fuel is removed in this state from a terminal if
33 the motor vehicle fuel is removed at the rack unless the removal is to
34 a licensed exporter for direct delivery to a destination outside of the
35 state;

36 (b) Motor vehicle fuel is removed in this state from a refinery if
37 either of the following applies:

1 (i) The removal is by bulk transfer and the refiner or the owner of
2 the motor vehicle fuel immediately before the removal is not a
3 licensee; or

4 (ii) The removal is at the refinery rack unless the removal is to
5 a licensed exporter for direct delivery to a destination outside of the
6 state;

7 (c) Motor vehicle fuel enters into this state (~~for sale,~~
8 ~~consumption, use, or storage~~) if either of the following applies:

9 (i) The entry is by bulk transfer and the importer is not a
10 licensee; or

11 (ii) The entry is not by bulk transfer;

12 (d) Motor vehicle fuel is sold or removed in this state to an
13 unlicensed entity unless there was a prior taxable removal, entry, or
14 sale of the motor vehicle fuel;

15 (e) Blended motor vehicle fuel is removed or sold in this state by
16 the blender of the fuel. The number of gallons of blended motor
17 vehicle fuel subject to the tax is the difference between the total
18 number of gallons of blended motor vehicle fuel removed or sold and the
19 number of gallons of previously taxed motor vehicle fuel used to
20 produce the blended motor vehicle fuel;

21 (f) Motor vehicle fuel is sold by a licensed motor vehicle fuel
22 supplier to a motor vehicle fuel distributor, motor vehicle fuel
23 importer, (~~or~~) motor vehicle fuel blender, or international fuel tax
24 agreement licensee and the motor vehicle fuel is not removed from the
25 bulk transfer-terminal system.

26 (3) The proceeds of the motor vehicle fuel excise tax shall be
27 distributed as provided in RCW 46.68.090.

28 **Sec. 3.** RCW 82.36.025 and 2005 c 314 s 101 are each amended to
29 read as follows:

30 (1) A motor vehicle fuel tax rate of twenty-three cents per gallon
31 (~~applies to the sale, distribution, or use of~~) on motor vehicle fuel
32 shall be imposed on motor vehicle fuel licensees.

33 (2) Beginning July 1, 2003, an additional and cumulative motor
34 vehicle fuel tax rate of five cents per gallon (~~applies to the sale,~~
35 ~~distribution, or use of~~) on motor vehicle fuel shall be imposed on
36 motor vehicle fuel licensees. This subsection (2) expires when the
37 bonds issued for transportation 2003 projects are retired.

1 (3) Beginning July 1, 2005, an additional and cumulative motor
2 vehicle fuel tax rate of three cents per gallon (~~((applies to the sale,~~
3 ~~distribution, or use of))~~) on motor vehicle fuel shall be imposed on
4 motor vehicle fuel licensees.

5 (4) Beginning July 1, 2006, an additional and cumulative motor
6 vehicle fuel tax rate of three cents per gallon (~~((applies to the sale,~~
7 ~~distribution, or use of))~~) on motor vehicle fuel shall be imposed on
8 motor vehicle fuel licensees.

9 (5) Beginning July 1, 2007, an additional and cumulative motor
10 vehicle fuel tax rate of two cents per gallon (~~((applies to the sale,~~
11 ~~distribution, or use of))~~) on motor vehicle fuel shall be imposed on
12 motor vehicle fuel licensees.

13 (6) Beginning July 1, 2008, an additional and cumulative motor
14 vehicle fuel tax rate of one and one-half cents per gallon (~~((applies to~~
15 ~~the sale, distribution, or use of))~~) on motor vehicle fuel shall be
16 imposed on motor vehicle fuel licensees.

17 **Sec. 4.** RCW 82.36.026 and 2001 c 270 s 3 are each amended to read
18 as follows:

19 (1) A licensed supplier shall (~~((remit))~~) be liable for and pay tax
20 to the department as provided in RCW 82.36.020. On a two-party
21 exchange, or buy-sell agreement between two licensed suppliers, the
22 receiving exchange partner or buyer (~~((who))~~) shall (~~((buyer shall~~
23 remit))) be liable for and pay the tax.

24 (2) A licensed refiner shall (~~((remit))~~) be liable for and pay tax to
25 the department on motor vehicle fuel removed from a refinery as
26 provided in RCW 82.36.020(2)(b).

27 (3) (~~((An))~~) A licensed importer shall (~~((remit))~~) be liable for and
28 pay tax to the department on motor vehicle fuel imported into this
29 state as provided in RCW 82.36.020(2)(c).

30 (4) A licensed blender shall (~~((remit))~~) be liable for and pay tax to
31 the department on the removal or sale of blended motor vehicle fuel as
32 provided in RCW 82.36.020(2)(e).

33 (5) Nothing in this chapter shall prohibit the licensee for payment
34 of the tax under this chapter from including as a part of the selling
35 price an amount equal to the tax.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.36 RCW
2 to read as follows:

3 International fuel tax agreement licensees, or persons operating
4 motor vehicles under other reciprocity agreements entered into with the
5 state of Washington, are liable for and must pay the tax under RCW
6 82.36.020 to the department on motor vehicle fuel used to operate motor
7 vehicles on the highways of this state. This provision does not apply
8 if the tax under RCW 82.36.020 has previously been imposed and paid by
9 the international fuel tax agreement licensee or if the use of such
10 fuel is exempt from the tax under this chapter.

11 **Sec. 6.** RCW 82.36.031 and 1998 c 176 s 11 are each amended to read
12 as follows:

13 For the purpose of determining the amount of liability for the tax
14 imposed under this chapter, and to periodically update license
15 information, each licensee, other than a motor vehicle fuel distributor
16 and an international fuel tax agreement licensee, shall file monthly
17 tax reports with the department, on a form prescribed by the
18 department.

19 A report shall be filed with the department. An international fuel
20 tax agreement licensee shall file tax reports quarterly even though no
21 motor vehicle fuel tax is due for the reporting period. Each tax
22 report shall contain a declaration by the person making the same, to
23 the effect that the statements contained therein are true and made
24 under penalties of perjury, which declaration has the same force and
25 effect as a verification of the report and is in lieu of the
26 verification. The report shall show information as the department may
27 require for the proper administration and enforcement of this chapter.
28 Tax reports shall be filed on or before the twenty-fifth day of the
29 next succeeding calendar month following the period to which the
30 reports relate. If the final filing date falls on a Saturday, Sunday,
31 or legal holiday the next secular or business day shall be the final
32 filing date.

33 The department, if it deems it necessary in order to ensure payment
34 of the tax imposed under this chapter, or to facilitate the
35 administration of this chapter, may require the filing of reports and
36 tax remittances at shorter intervals than one month.

1 **Sec. 7.** RCW 82.36.060 and 2001 c 270 s 5 are each amended to read
2 as follows:

3 (1) An application for a license issued under this chapter shall be
4 made to the department on forms to be furnished by the department and
5 shall contain such information as the department deems necessary.

6 (2) Every application for a license must contain the following
7 information to the extent it applies to the applicant:

8 (a) Proof as the department may require concerning the applicant's
9 identity, including but not limited to his or her fingerprints or those
10 of the officers of a corporation making the application;

11 (b) The applicant's form and place of organization including proof
12 that the individual, partnership, or corporation is licensed to do
13 business in this state;

14 (c) The qualification and business history of the applicant and any
15 partner, officer, or director;

16 (d) The applicant's financial condition or history including a bank
17 reference and whether the applicant or any partner, officer, or
18 director has ever been adjudged bankrupt or has an unsatisfied judgment
19 in a federal or state court;

20 (e) Whether the applicant has been adjudged guilty of a crime that
21 directly relates to the business for which the license is sought and
22 the time elapsed since the conviction is less than ten years, or has
23 suffered a judgment within the preceding five years in a civil action
24 involving fraud, misrepresentation, or conversion and in the case of a
25 corporation or partnership, all directors, officers, or partners.

26 (3) An applicant for a license as a motor vehicle fuel importer
27 must list on the application each state, province, or country from
28 which the applicant intends to import motor vehicle fuel and, if
29 required by the state, province, or country listed, must be licensed or
30 registered for motor vehicle fuel tax purposes in that state, province,
31 or country.

32 (4) An applicant for a license as a motor vehicle fuel exporter
33 must list on the application each state, province, or country to which
34 the exporter intends to export motor vehicle fuel received in this
35 state by means of a transfer outside of the bulk transfer-terminal
36 system and, if required by the state, province, or country listed, must
37 be licensed or registered for motor vehicle fuel tax purposes in that
38 state, province, or country.

1 (5) An applicant for a license as a motor vehicle fuel supplier
2 must have a federal certificate of registry that is issued under the
3 internal revenue code and authorizes the applicant to enter into
4 federal tax-free transactions on motor vehicle fuel in the terminal
5 transfer system.

6 (6) After receipt of an application for a license, the director may
7 conduct an investigation to determine whether the facts set forth are
8 true. The director shall require a fingerprint record check of the
9 applicant through the Washington state patrol criminal identification
10 system and the federal bureau of investigation before issuance of a
11 license. The results of the background investigation including
12 criminal history information may be released to authorized department
13 personnel as the director deems necessary. The department shall charge
14 a license holder or license applicant a fee of fifty dollars for each
15 background investigation conducted.

16 An applicant who makes a false statement of a material fact on the
17 application may be prosecuted for false swearing as defined by RCW
18 9A.72.040.

19 (7) Except as provided by subsection (8) of this section, before
20 granting any license issued under this chapter, the department shall
21 require applicant to file with the department, in such form as shall be
22 prescribed by the department, a corporate surety bond duly executed by
23 the applicant as principal, payable to the state and conditioned for
24 faithful performance of all the requirements of this chapter, including
25 the payment of all taxes, penalties, and other obligations arising out
26 of this chapter. The total amount of the bond or bonds shall be fixed
27 by the department and may be increased or reduced by the department at
28 any time subject to the limitations herein provided. In fixing the
29 total amount of the bond or bonds, the department shall require a bond
30 or bonds equivalent in total amount to twice the estimated monthly
31 excise tax determined in such manner as the department may deem proper.
32 If at any time the estimated excise tax to become due during the
33 succeeding month amounts to more than fifty percent of the established
34 bond, the department shall require additional bonds or securities to
35 maintain the marginal ratio herein specified or shall demand excise tax
36 payments to be made weekly or semimonthly to meet the requirements
37 hereof.

1 The total amount of the bond or bonds required of any licensee
2 shall never be less than five thousand dollars nor more than one
3 hundred thousand dollars.

4 No recoveries on any bond or the execution of any new bond shall
5 invalidate any bond and no revocation of any license shall effect the
6 validity of any bond but the total recoveries under any one bond shall
7 not exceed the amount of the bond.

8 In lieu of any such bond or bonds in total amount as herein fixed,
9 a licensee may deposit with the state treasurer, under such terms and
10 conditions as the department may prescribe, a like amount of lawful
11 money of the United States or bonds or other obligations of the United
12 States, the state, or any county of the state, of an actual market
13 value not less than the amount so fixed by the department.

14 Any surety on a bond furnished by a licensee as provided herein
15 shall be released and discharged from any and all liability to the
16 state accruing on such bond after the expiration of thirty days from
17 the date upon which such surety has lodged with the department a
18 written request to be released and discharged, but this provision shall
19 not operate to relieve, release, or discharge the surety from any
20 liability already accrued or which shall accrue before the expiration
21 of the thirty day period. The department shall promptly, upon
22 receiving any such request, notify the licensee who furnished the bond;
23 and unless the licensee, on or before the expiration of the thirty day
24 period, files a new bond, or makes a deposit in accordance with the
25 requirements of this section, the department shall forthwith cancel the
26 license. Whenever a new bond is furnished by a licensee, the
27 department shall cancel the old bond as soon as the department and the
28 attorney general are satisfied that all liability under the old bond
29 has been fully discharged.

30 The department may require a licensee to give a new or additional
31 surety bond or to deposit additional securities of the character
32 specified in this section if, in its opinion, the security of the
33 surety bond theretofore filed by such licensee, or the market value of
34 the properties deposited as security by the licensee, shall become
35 impaired or inadequate; and upon the failure of the licensee to give
36 such new or additional surety bond or to deposit additional securities
37 within thirty days after being requested so to do by the department,
38 the department shall forthwith cancel his or her license.

1 (8) The department may waive the requirements of subsection (7) of
2 this section for licensed distributors if, upon determination by the
3 department, the licensed distributor has sufficient resources, assets,
4 other financial instruments, or other means, to adequately make
5 payments on the estimated monthly motor vehicle fuel tax payments,
6 penalties, and interest arising out of this chapter. The department
7 shall adopt rules to administer this subsection.

8 (9) An application for an international fuel tax agreement license
9 must be made to the department. The application must be filed upon a
10 form prescribed by the department and contain such information as the
11 department may require. The department shall charge a fee of ten
12 dollars per set of international fuel tax agreement decals issued to
13 each applicant or licensee. The department shall transmit the fee to
14 the state treasurer for deposit in the motor vehicle fund.

15 **Sec. 8.** RCW 82.36.080 and 1998 c 176 s 20 are each amended to read
16 as follows:

17 (1) It shall be unlawful for any person to engage in business in
18 this state as any of the following unless the person is the holder of
19 an uncanceled license issued by the department authorizing the person
20 to engage in that business:

- 21 (a) Motor vehicle fuel supplier;
- 22 (b) Motor vehicle fuel distributor;
- 23 (c) Motor vehicle fuel exporter;
- 24 (d) Motor vehicle fuel importer; (~~or~~)
- 25 (e) Motor vehicle fuel blender; or
- 26 (f) International fuel tax agreement licensee.

27 (2) A person engaged in more than one activity for which a license
28 is required must have a separate license classification for each
29 activity, but a motor vehicle fuel supplier is not required to obtain
30 a separate license classification for any other activity for which a
31 license is required.

32 (3) If any person acts as a licensee without first securing the
33 license required herein the excise tax shall be immediately due and
34 payable on account of all motor vehicle fuel distributed or used by the
35 person. The director shall proceed forthwith to determine from the
36 best available sources, the amount of the tax, and the director shall
37 immediately assess the tax in the amount found due, together with a

1 penalty of one hundred percent of the tax, and shall make a certificate
2 of such assessment and penalty. In any suit or proceeding to collect
3 the tax or penalty, or both, such certificate shall be prima facie
4 evidence that the person therein named is indebted to the state in the
5 amount of the tax and penalty therein stated. Any tax or penalty so
6 assessed may be collected in the manner prescribed in this chapter with
7 reference to delinquency in payment of the tax or by an action at law,
8 which the attorney general shall commence and prosecute to final
9 determination at the request of the director. The foregoing remedies
10 of the state shall be cumulative and no action taken pursuant to this
11 section shall relieve any person from the penal provisions of this
12 chapter.

13 **Sec. 9.** RCW 82.36.160 and 1998 c 176 s 27 are each amended to read
14 as follows:

15 Every licensee shall maintain in the office of his or her principal
16 place of business in this state, for a period of five years, records of
17 motor vehicle fuel received, sold, distributed, or used by the
18 licensee, in such form as the director may prescribe, together with
19 invoices, bills of lading, and other pertinent papers as may be
20 required under the provisions of this chapter.

21 ~~((Every dealer purchasing motor vehicle fuel taxable under this
22 chapter for the purpose of resale, shall maintain within this state,
23 for a period of two years a record of motor vehicle fuels received, the
24 amount of tax paid to the licensee as part of the purchase price,
25 together with delivery tickets, invoices, and bills of lading, and such
26 other records as the director shall require.))~~

27 **Sec. 10.** RCW 82.36.180 and 1998 c 176 s 30 are each amended to
28 read as follows:

29 The director, or duly authorized agents, may make such examinations
30 of the records, stocks, facilities, and equipment of any licensee,
31 ~~((and service stations,))~~ and make such other investigations as deemed
32 necessary in carrying out the provisions of this chapter. If such
33 examinations or investigations disclose that any reports of licensees
34 theretofore filed with the director pursuant to the requirements of
35 this chapter have shown incorrectly the gallonage of motor vehicle fuel

1 distributed or the tax ((~~accruing~~)) liability thereon, the director may
2 make such changes in subsequent reports and payments of such licensees
3 as deemed necessary to correct the errors disclosed.

4 Every such licensee or such other person not maintaining records in
5 this state so that an audit of such records may be made by the director
6 or a duly authorized representative shall be required to make the
7 necessary records available to the director upon request and at a
8 designated office within this state; or, in lieu thereof, the director
9 or a duly authorized representative shall proceed to any out-of-state
10 office at which the records are prepared and maintained to make such
11 examination.

12 **Sec. 11.** RCW 82.36.305 and 1965 ex.s. c 79 s 12 are each amended
13 to read as follows:

14 Any dealer who delivers motor vehicle fuel exclusively for marine
15 use into the fuel tanks connected to the engine of any marine vessel
16 (excluding any amphibious vehicle) owned or operated by the purchaser
17 of the fuel, said dealer having paid the tax on such fuel levied or
18 directed to be paid as provided in this chapter, ((~~either directly by~~
19 ~~the collection of such tax by the vendor from the dealer or~~))
20 indirectly by the adding of the amount of the tax to the price of such
21 fuel, shall be entitled to and shall be refunded the amount of the tax
22 so paid. The refund shall be applicable only if the person to whom the
23 dealer sold the fuel holds a permit issued pursuant to the provisions
24 of RCW 82.36.270 at the time of sale. Each invoice covering such sale
25 shall have the statement, "Ex Washington Motor Vehicle Fuel Tax,"
26 clearly marked thereon.

27 In addition to the claim to be filed under RCW 82.36.310 the dealer
28 shall also file a certificate supporting such refund in such form and
29 detail as the director may require. The certificate shall contain a
30 statement signed by the purchaser of the fuel to the effect that the
31 fuel so purchased will be used solely for marine use. The dealer may
32 either file a separate certificate obtained from the purchaser for each
33 delivery of fuel thereto or he may file one certificate covering all
34 deliveries made to such purchaser during any given calendar month.

35 **Sec. 12.** RCW 82.36.370 and 1998 c 176 s 42 are each amended to
36 read as follows:

1 (1) A refund shall be made in the manner provided in this chapter
2 or a credit given to a licensee allowing for the excise tax paid or
3 accrued on all motor vehicle fuel which is lost or destroyed, while
4 (~~applicant shall be the owner thereof~~) the licensee was the owner,
5 through fire, lightning, flood, wind storm, or explosion.

6 (2) A refund shall be made in the manner provided in this chapter
7 or a credit given allowing for the excise tax paid or accrued on all
8 motor vehicle fuel of five hundred gallons or more which is lost or
9 destroyed, while applicant shall be the owner thereof, through leakage
10 or other casualty except evaporation, shrinkage or unknown causes:
11 PROVIDED, That the director shall be notified in writing as to the full
12 circumstances surrounding such loss or destruction and the amount of
13 the loss or destruction within thirty days from the day of discovery of
14 such loss or destruction.

15 (3) Recovery for such loss or destruction under either subsection
16 (1) or (2) must be susceptible to positive proof thereby enabling the
17 director to conduct such investigation and require such information as
18 the director may deem necessary.

19 In the event that the director is not satisfied that the fuel was
20 lost or destroyed as claimed, wherefore required information or proof
21 as required hereunder is not sufficient to substantiate the accuracy of
22 the claim, the director may deem as sufficient cause the denial of all
23 right relating to the refund or credit for the excise tax on motor
24 vehicle fuel alleged to be lost or destroyed.

25 **Sec. 13.** RCW 82.36.373 and 1998 c 176 s 43 are each amended to
26 read as follows:

27 A motor vehicle supplier, motor vehicle fuel distributor, motor
28 vehicle fuel importer, or motor vehicle fuel blender, under rules
29 adopted by the department, is entitled to a refund of the tax paid on
30 those sales of motor vehicle fuel for which no consideration has been
31 received from or on behalf of (~~the~~) a purchaser licensee and that has
32 been declared to be worthless accounts receivable. The amount of tax
33 refunded must not exceed the amount of tax paid by the motor vehicle
34 fuel distributor, motor vehicle fuel importer, or motor vehicle fuel
35 blender under this chapter. If the motor vehicle fuel distributor,
36 motor vehicle fuel importer, or motor vehicle fuel blender subsequently
37 collects any amount from the account declared worthless, the amount

1 collected shall be apportioned between the charges for the fuel and tax
2 thereon. The motor vehicle fuel tax collected must be returned to the
3 department.

4 **Sec. 14.** RCW 82.38.030 and 2005 c 314 s 102 are each amended to
5 read as follows:

6 (1) There is hereby levied and imposed upon special fuel (~~(users)~~)
7 licensees a tax at the rate of twenty-three cents per gallon of special
8 fuel, or each one hundred cubic feet of compressed natural gas,
9 measured at standard pressure and temperature.

10 (2) Beginning July 1, 2003, an additional and cumulative tax rate
11 of five cents per gallon of special fuel, or each one hundred cubic
12 feet of compressed natural gas, measured at standard pressure and
13 temperature shall be imposed on special fuel (~~(users)~~) licensees. This
14 subsection (2) expires when the bonds issued for transportation 2003
15 projects are retired.

16 (3) Beginning July 1, 2005, an additional and cumulative tax rate
17 of three cents per gallon of special fuel, or each one hundred cubic
18 feet of compressed natural gas, measured at standard pressure and
19 temperature shall be imposed on special fuel (~~(users)~~) licensees.

20 (4) Beginning July 1, 2006, an additional and cumulative tax rate
21 of three cents per gallon of special fuel, or each one hundred cubic
22 feet of compressed natural gas, measured at standard pressure and
23 temperature shall be imposed on special fuel (~~(users)~~) licensees.

24 (5) Beginning July 1, 2007, an additional and cumulative tax rate
25 of two cents per gallon of special fuel, or each one hundred cubic feet
26 of compressed natural gas, measured at standard pressure and
27 temperature shall be imposed on special fuel (~~(users)~~) licensees.

28 (6) Beginning July 1, 2008, an additional and cumulative tax rate
29 of one and one-half cents per gallon of special fuel, or each one
30 hundred cubic feet of compressed natural gas, measured at standard
31 pressure and temperature shall be imposed on special fuel (~~(users)~~)
32 licensees.

33 (7) Taxes are imposed when:

34 (a) Special fuel is removed in this state from a terminal if the
35 special fuel is removed at the rack unless the removal is to a licensed
36 exporter for direct delivery to a destination outside of the state, or

1 the removal is to a special fuel distributor for direct delivery to an
2 international fuel tax agreement licensee under RCW 82.38.320;

3 (b) Special fuel is removed in this state from a refinery if either
4 of the following applies:

5 (i) The removal is by bulk transfer and the refiner or the owner of
6 the special fuel immediately before the removal is not a licensee; or

7 (ii) The removal is at the refinery rack unless the removal is to
8 a licensed exporter for direct delivery to a destination outside of the
9 state, or the removal is to a special fuel distributor for direct
10 delivery to an international fuel tax agreement licensee under RCW
11 82.38.320;

12 (c) Special fuel enters into this state (~~for sale, consumption,~~
13 ~~use, or storage~~), unless the fuel enters this state for direct
14 delivery to an international fuel tax agreement licensee under RCW
15 82.38.320, if either of the following applies:

16 (i) The entry is by bulk transfer and the importer is not a
17 licensee; or

18 (ii) The entry is not by bulk transfer;

19 (d) Special fuel is sold or removed in this state to an unlicensed
20 entity unless there was a prior taxable removal, entry, or sale of the
21 special fuel;

22 (e) Blended special fuel is removed or sold in this state by the
23 blender of the fuel. The number of gallons of blended special fuel
24 subject to tax is the difference between the total number of gallons of
25 blended special fuel removed or sold and the number of gallons of
26 previously taxed special fuel used to produce the blended special fuel;

27 (f) Dyed special fuel is used on a highway, as authorized by the
28 internal revenue code, unless the use is exempt from the special fuel
29 tax;

30 (g) Dyed special fuel is held for sale, sold, used, or is intended
31 to be used in violation of this chapter;

32 (h) Special fuel purchased by an international fuel tax agreement
33 licensee under RCW 82.38.320 is used on a highway; and

34 (i) Special fuel is sold by a licensed special fuel supplier to a
35 special fuel distributor, special fuel importer, or special fuel
36 blender and the special fuel is not removed from the bulk transfer-
37 terminal system.

1 (8) The tax imposed by this chapter, if required to be collected by
2 the licensee, is held in trust by the licensee until paid to the
3 department, and a licensee who appropriates or converts the tax
4 collected to his or her own use or to any use other than the payment of
5 the tax to the extent that the money required to be collected is not
6 available for payment on the due date as prescribed in this chapter is
7 guilty of a felony, or gross misdemeanor in accordance with the theft
8 and anticipatory provisions of Title 9A RCW. A person, partnership,
9 corporation, or corporate officer who fails to collect the tax imposed
10 by this section, or who has collected the tax and fails to pay it to
11 the department in the manner prescribed by this chapter, is personally
12 liable to the state for the amount of the tax.

13 **Sec. 15.** RCW 82.38.032 and 1998 c 176 s 52 are each amended to
14 read as follows:

15 The tax under RCW 82.38.030, if not previously imposed and paid,
16 must be paid over to the department by special fuel (~~((users))~~) licensees
17 and persons (~~((licensed under the international fuel tax agreement or))~~)
18 operating motor vehicles under other fuel tax reciprocity agreements
19 entered into with the state of Washington, on the use of special fuel
20 to operate motor vehicles on the highways of this state, unless the use
21 is exempt from the tax under this chapter.

22 **Sec. 16.** RCW 82.38.035 and 2005 c 314 s 107 are each amended to
23 read as follows:

24 (1) A licensed supplier shall (~~((remit))~~) be liable for and pay tax
25 on special fuel to the department as provided in RCW 82.38.030(7)(a).
26 On a two-party exchange, or buy-sell agreement between two licensed
27 suppliers, the receiving exchange partner or buyer shall (~~((remit))~~) be
28 liable for and pay the tax.

29 (2) A licensed refiner shall (~~((remit))~~) be liable for and pay tax to
30 the department on special fuel removed from a refinery as provided in
31 RCW 82.38.030(7)(b).

32 (3) (~~((An))~~) A licensed importer shall (~~((remit))~~) be liable for and
33 pay tax to the department on special fuel imported into this state as
34 provided in RCW 82.38.030(7)(c).

35 (4) A licensed blender shall (~~((remit))~~) be liable for and pay tax to

1 the department on the removal or sale of blended special fuel as
2 provided in RCW 82.38.030(7)(e).

3 (5) A licensed dyed special fuel user shall ~~((remit))~~ be liable for
4 and pay tax to the department on the use of dyed special fuel as
5 provided in RCW 82.38.030(7)(f).

6 (6) Nothing in this chapter prohibits the licensee liable for
7 payment of the tax under this chapter from including as a part of the
8 selling price an amount equal to such tax.

9 **Sec. 17.** RCW 82.38.050 and 1990 c 250 s 82 are each amended to
10 read as follows:

11 ~~((Except as otherwise provided in this chapter, every special fuel~~
12 ~~user shall be liable for the tax on special fuel used in motor vehicles~~
13 ~~leased to the user for thirty days or more and operated on the highways~~
14 ~~of this state to the same extent and in the same manner as special fuel~~
15 ~~used in his own motor vehicles and operated on the highways of this~~
16 ~~state: PROVIDED, That))~~ A lessor who is engaged regularly in the
17 business of leasing or renting for compensation motor vehicles and
18 equipment he owns without drivers to carriers or other lessees for
19 interstate operation, may be deemed to be the special fuel user when he
20 supplies or pays for the special fuel consumed in such vehicles, and
21 such lessor may be issued a international fuel tax agreement license
22 ~~((as a special fuel user))~~ when application and bond have been properly
23 filed with and approved by the department for such license. Any lessee
24 may exclude motor vehicles of which he or she is the lessee from
25 reports and liabilities pursuant to this chapter, but only if the motor
26 vehicles in question have been leased from a lessor holding a valid
27 ~~((special fuel user's))~~ international fuel tax a agreement license.

28 ~~((Every such lessor shall file with the application for a special~~
29 ~~fuel user's license one copy of the lease form or service contract the~~
30 ~~lessor enters into with the various lessees of the lessor's motor~~
31 ~~vehieles.))~~ When the ~~((special fuel user's))~~ license has been secured,
32 such lessor shall make and assign to each motor vehicle leased for
33 interstate operation a photocopy of such license to be carried in the
34 cab compartment of the motor vehicle and on which shall be typed or
35 printed on the back the unit or motor number of the motor vehicle to
36 which it is assigned and the name of the lessee. Such lessor shall be

1 responsible for the proper use of such photocopy of the license issued
2 and its return to the lessor with the motor vehicle to which it is
3 assigned.

4 The lessor shall be responsible for fuel tax licensing and
5 reporting, as required by this chapter, on the operation of all motor
6 vehicles leased to others for less than thirty days.

7 **Sec. 18.** RCW 82.38.070 and 1998 c 176 s 58 are each amended to
8 read as follows:

9 A special fuel supplier is entitled to a credit of the tax paid
10 over to the department on those sales of special fuel for which the
11 supplier has received no consideration from or on behalf of the
12 purchaser licensee. The amount of the tax credit shall not exceed the
13 amount of tax imposed by this chapter on such sales. If a credit has
14 been granted under this section, any amounts collected for application
15 against the accounts on which such a credit is based shall be reported
16 on a subsequent return filed after such collection, and the amount of
17 credit received by the supplier based upon the collected amount shall
18 be returned to the department. In the event the credit has not been
19 paid, the amount of the credit requested by the supplier shall be
20 adjusted by the department to reflect the decrease in the amount on
21 which the claim is based.

22 **Sec. 19.** RCW 82.38.130 and 1998 c 176 s 65 are each amended to
23 read as follows:

24 The department may revoke the license of any licensee for any of
25 the grounds constituting cause for denial of a license set forth in RCW
26 82.38.120 or for other reasonable cause. Before revoking such license
27 the department shall notify the licensee to show cause within twenty
28 days of the date of the notice why the license should not be revoked:
29 PROVIDED, That at any time prior to and pending such hearing the
30 department may, in the exercise of reasonable discretion, suspend such
31 license.

32 The department shall cancel any special fuel license immediately
33 upon surrender thereof by the holder.

34 Any surety on a bond furnished by a licensee as provided in this
35 chapter shall be released and discharged from any and all liability to
36 the state accruing on such bond after the expiration of forty-five days

1 from the date which such surety shall have lodged with the department
2 a written request to be released and discharged, but this provision
3 shall not operate to relieve, release, or discharge the surety from any
4 liability already accrued or which shall accrue before the expiration
5 of the forty-five day period. The department shall promptly, upon
6 receiving any such request, notify the licensee who furnished the bond,
7 and unless the licensee, on or before the expiration of the forty-five
8 day period, files a new bond, in accordance with this section, the
9 department ((forthwith)) shall cancel the ((~~special fuel dealer's or~~
10 ~~special fuel user's~~)) license.

11 The department may require a new or additional surety bond of the
12 character specified in RCW 82.38.020(3) if, in its opinion, the
13 security of the surety bond therefor filed by such licensee, shall
14 become impaired or inadequate. Upon failure of the licensee to give
15 such new or additional surety bond within forty-five days after being
16 requested to do so by the department, or after he or she shall fail or
17 refuse to file reports and remit or pay taxes at the intervals fixed by
18 the department, the department forthwith shall cancel his or her
19 license.

20 **Sec. 20.** RCW 82.38.140 and 1998 c 176 s 66 are each amended to
21 read as follows:

22 (1) Every licensee and every person importing, manufacturing,
23 refining, ((~~dealing in,~~)) transporting, blending, or storing special
24 fuel in this state shall keep for a period of not less than five years
25 open to inspection at all times during the business hours of the day to
26 the department or its authorized representatives, a complete record of
27 all special fuel purchased or received and all of such products sold,
28 delivered, or used by them. Such records shall show:

29 (a) The date of each receipt;

30 (b) The name and address of the person from whom purchased or
31 received;

32 (c) The number of gallons received at each place of business or
33 place of storage in the state of Washington;

34 (d) The date of each sale or delivery;

35 (e) The number of gallons sold, delivered, or used for taxable
36 purposes;

1 (f) The number of gallons sold, delivered, or used for any purpose
2 not subject to the tax imposed in this chapter;

3 (g) The name, address, and special fuel license number of the
4 purchaser if the special fuel tax is not collected on the sale or
5 delivery;

6 (h) The inventories of special fuel on hand at each place of
7 business at the end of each month.

8 (2)(a) All international fuel tax agreement licensees and dyed
9 special fuel users authorized to use dyed special fuel on highway in
10 vehicles licensed for highway operation shall maintain detailed mileage
11 records on an individual vehicle basis.

12 (b) Such operating records shall show both on-highway and off-
13 highway usage of special fuel on a daily basis for each vehicle.

14 (c) In the absence of operating records that show both on-highway
15 and off-highway usage of special fuel on a daily basis for each
16 vehicle, fuel consumption must be computed under RCW 82.38.060.

17 (3) The department may require a person other than a licensee
18 engaged in the business of selling, purchasing, distributing, storing,
19 transporting, or delivering special fuel to submit periodic reports to
20 the department regarding the disposition of the fuel. The reports must
21 be on forms prescribed by the department and must contain such
22 information as the department may require.

23 (4) Every person operating any conveyance for the purpose of
24 hauling, transporting, or delivering special fuel in bulk shall have
25 and possess during the entire time the person is hauling special fuel,
26 an invoice, bill of sale, or other statement showing the name, address,
27 and license number of the seller or consigner, the destination, name,
28 and address of the purchaser or consignee, license number, if
29 applicable, and the number of gallons. The person hauling such special
30 fuel shall at the request of any law enforcement officer or authorized
31 representative of the department, or other person authorized by law to
32 inquire into, or investigate those types of matters, produce for
33 inspection such invoice, bill of sale, or other statement and shall
34 permit such official to inspect and gauge the contents of the vehicle.

35 **Sec. 21.** RCW 82.38.180 and 1998 c 176 s 71 are each amended to
36 read as follows:

37 Any person who has purchased special fuel on which tax has been

1 paid (~~a special fuel tax either directly or to the vendor from whom it~~
2 ~~was purchased~~) may file a claim with the department for a refund of
3 the tax (~~so paid and shall be reimbursed and repaid the amount of~~)
4 for:

5 (1) (~~Any~~) Taxes previously paid on special fuel used for purposes
6 other than for the propulsion of motor vehicles upon the public
7 highways in this state.

8 (2) (~~Any~~) Taxes previously paid on special fuel exported for use
9 outside of this state. Special fuel carried from this state in the
10 fuel tank of a motor vehicle is deemed to be exported from this state.
11 Special fuel distributed to a federally recognized Indian tribal
12 reservation located within the state of Washington is not considered
13 exported outside this state.

14 (3) (~~Any~~) Tax, penalty, or interest erroneously or illegally
15 collected or paid.

16 (4) (~~Any~~) Taxes previously paid on all special fuel which is lost
17 or destroyed, while applicant shall be the owner thereof, through fire,
18 lightning, flood, wind storm, or explosion.

19 (5) (~~Any~~) Taxes previously paid on all special fuel of five
20 hundred gallons or more which is lost or destroyed while applicant
21 shall be the owner thereof, through leakage or other casualty except
22 evaporation, shrinkage, or unknown causes.

23 (6) (~~Any~~) Taxes previously paid on special fuel that is
24 inadvertently mixed with dyed special fuel.

25 Recovery for such loss or destruction under either subsection (4),
26 (5), or (6) of this section must be susceptible to positive proof
27 thereby enabling the department to conduct such investigation and
28 require such information as (~~they~~) it may deem necessary. In the
29 event that the department is not satisfied that the fuel was lost,
30 destroyed, or contaminated as claimed because information or proof as
31 required hereunder is not sufficient to substantiate the accuracy of
32 the claim, (~~they~~) it may deem such as sufficient cause to deny all
33 right relating to the refund or credit for the excise tax paid on
34 special fuel alleged to be lost or destroyed.

35 No refund or claim for credit shall be approved by the department
36 unless the gallons of special fuel claimed as nontaxable satisfy the
37 conditions specifically set forth in this section and the nontaxable

1 event or use occurred during the period covered by the refund claim.
2 Refunds or claims for credit (~~by sellers or users of special fuel~~)
3 shall not be allowed for anticipated nontaxable use or events.

4 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 82.36.407 (Tax liability of user--Payment--Exceptions) and
7 1998 c 176 s 48; and

8 (2) RCW 82.38.285 (Tax liability of user--Exceptions) and 1998 c
9 176 s 81.

10 NEW SECTION. **Sec. 23.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 24.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

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